

If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)

November 29, 2005

Dear Xxxxx:

This letter is in response to your letter dated October 14, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Based on a conversation with a representative of the Illinois Department of Revenue, I have been advised that my dispute should be handled by requesting a Letter of Ruling.

The nature of my dispute arose out of the purchase of a 2004 Truck. Like many, I purchased the truck at the 'employee price'. Specifically, I purchased a Ford 250 Pickup Truck under the 'Ford Family Plan'.

Attached as Exhibit A is the sales tax form. Attached as Exhibit B is a copy of the window sticker.

At the time of purchase I understood what the asking price of the truck was, which was the published window sticker price of \$38,259.95. I agreed to pay I agreed to pay [sic] \$36,259.95 before tax, which included a \$2000 rebate. Much to my surprise, when the tax papers were prepared, the vehicle price was 'grossed up' by the Ford Family Plan discount in order to calculate the sales tax. I disputed the higher tax amount and spoke to the manager regarding the calculation. At the time I was informed that the Illinois Department of Revenue instructed dealers through the Illinois Car Dealers Association to collect tax on the discount amounts given to consumers through the various

employee discount programs. The dealer advised me that their hands were tied and that I should contact the Illinois Department of Revenue.

When I spoke to the representative via phone, he stated that the employee discounts are taxable just like rebates are taxable. While I understand (and disagree) that rebates are taxable, the fact remains that when a manufacture [sic] lowers a price of a product, as car manufacturers are doing under the employee discount plans, the discount is not a rebate.

I have also reviewed several newspaper print ads that advertised the employee discount pricing. Please note that the rebates were broken out from the discount amount. It is my belief that consumers should not pay sales tax on the amount of price reduction under the various automotive price discounts.

To illustrate my position, let's assume that ABC has a high inventory of lawn tractors. To reduce the inventory ABC lowers the price of the product, thus discounting the original asking price. In this illustration, would the consumer pay tax on the original price of the lawn tractor? Or, would the consumer pay tax on the actual price of the lawn tractor?

In order to illustrate the fact that the incentive is a price reduction, I have also enclosed as Exhibit C a copy of the dealer invoice which shows the original price in the left program [sic] and the employee discount price in the right column.

The employee discount program offered by the automobile industry represents a price reduction for their products. The price reduction is separate from any rebate. While clearly the price reduction is an 'incentive' for consumers to buy automobiles, I fail to understand how the Illinois Department of Revenue can tax a price reduction or incentive.

Exhibit D is the 'Computation of Overcharge of Sales Tax'. The amount I was overcharged is \$147.44. It is my position that this tax was illegally collected should be refunded to me.

Accordingly, please consider this letter a formal request for the legal justification that supports the Illinois Department of Revenues [sic] position that consumers, such as I, should pay tax on the discounts received under the 'Ford Family Plan', or any other employee discount plans. If possible, I would like present [sic] my argument in person if procedures are established for such. I am also requesting that you acknowledge receipt of this letter and provide notice on the approximate time frame it should take to resolve this dispute.

Thank you for your attention in reviewing this matter and I look forward to your response.

DEPARTMENT'S RESPONSE:

Gross receipts subject to Retailers' Occupation Tax are defined as all the consideration actually received by the seller, except traded-in tangible personal property. See 86 Ill. Adm. Code 130.401. If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller. This amount is fully taxable. See 86 Ill. Adm. Code 130.2125. An example is where a car dealer sells a vehicle for

\$40,000 with a \$2,000 discount (with rebate or reimbursement). The purchaser pays \$38,000 to the dealer and the dealer receives \$2,000 from the manufacturer. In this example, the dealer's total gross receipts of \$40,000 are subject to Retailers' Occupation Tax.

If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125. An example is where a car dealer sells a vehicle for \$40,000 with a \$2,000 discount (without rebate or reimbursement). The purchaser pays \$38,000 to the dealer and the dealer receives no other consideration from any other source. In this example, the dealer's total gross receipts of \$38,000 are subject to Retailers' Occupation Tax.

Our understanding of these transactions is that the dealer commission referenced in your letter is another form of rebate or reimbursement for the discount of which the dealer received consideration towards the purchase price of the vehicle and is fully subject to Retailers' Occupation Tax.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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